



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/528,943

03/23/2005

Dale R Heron

GB 020163

6568

24737

7590

04/01/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

MCCULLOCH JR, WILLIAM H

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

04/01/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/528,943	<b>Applicant(s)</b> HERON ET AL.	
	<b>Examiner</b> William H. McCulloch	<b>Art Unit</b> 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-11 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/23/2006</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) with mailroom date 1/23/2006 was filed in compliance with the provisions of 37 CFR 1.97-1.98. Accordingly, the Examiner has considered the information disclosure statement.

### ***Claim Objections***

2. Claims 4-6 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits. Claims 4-6 must be cancelled or rewritten to comply with the provisions of 37 CFR 1.75(c).

3. The claims are objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

### ***Specification***

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Art Unit: 3714

5. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim is directed to a computer program, *per se*, which is not considered to meet the statutory definition of acceptable subject matter. It is possible that applicant intends to claim a computer readable medium storing program instructions. It is noted that claim 11 attempts to further limit the subject matter of claim 9 or 10; however, claims 9 and 10 are directed to a method, which would be considered a different statutory class of invention from what claim 11 ostensibly attempts to claim (i.e., a computer readable medium). Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-2 and 7-11 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 2003/0224855 to Cunningham (hereinafter Cunningham).

Regarding claims 1 and 9, Cunningham teaches a data processing system, and method for its use, comprising a server (e.g., game server 70; see at least Pars. 39-40) for processing a software application enabling interaction among multiple users sharing a virtual environment represented geographically as a plurality of cells (e.g., cells 10-15; see at least Figs. 1 and 3 and Par. 27), each user being represented at a virtual location in said environment (see at least Par. 15), and a plurality of user-interface apparatus (e.g., mobile gaming stations (MGS) 31-33; see at least Par. 27) each for receiving state data relating to said environment from said server via a plurality of channels, wherein each cell is associated with one of said channels (e.g., dedicated communication links between base transceiver stations (BTS) for respective cells, and base station controller (BSC); see at least Fig. 1 and Pars. 27-28), and at least one of said user-interface apparatus is operable to tune to one of said channels so as to receive the channel associated with the cell in which the respective user's representation is located (see at least Pars. 47 and 54).

Regarding claim 2, Cunningham teaches wherein at least some of said cells overlap with adjacent cells, as illustrated by Figure 3.

Regarding claims 7 and 8, Cunningham teaches wherein the user devices are mobile phone devices (see at least Fig. 4), and further indicates that the apparatus have receiving means operable to tune to one of said channels so as to receive the channel

Art Unit: 3714

associated with the cell in which the respective user's representation is located (e.g., antenna 501 in communication with receiver 510 and microprocessor 525).

Regarding claim 10, Cunningham teaches detecting the direction of movement of said user's representation and receiving another one of said channels which is associated with a neighboring cell to that cell comprising said virtual location in accordance with said detected direction (e.g., when the player moves from one cell to the next cell, the communication channel used by the player device is updated by a "handoff" from one channel to the next; see at least Pars. 32-33).

Regarding claim 11, Cunningham teaches that computer software applications are used to carry out the operations of the system, as described above, in combination with the individual computer components (see at least the Pars. 14-15 and 51).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham in view of U.S. 6,025,801 to Beitel (hereinafter Beitel).

Cunningham teaches the invention substantially as described above, but lacks in explicitly teaching that cells are arranged in a 2-D (read: two-dimensional) row and column matrix formation. In a related disclosure, Beitel teaches a virtual environment 202 composed of adjacent geographic cells, which are represented by square boxes in

Art Unit: 3714

a 2-D matrix formation (see at least 2:48-59 and Fig. 2). Given the teachings of both Cunningham and Beitel, it is clear that both hexagonal and square cells in a 2-D matrix were considered to be appropriate shapes for the plurality of cells in each virtual environment by those of ordinary skill in the art at the time of applicant's invention. Therefore, the subject matter of claim 3 would have been obvious because the substitution of one known element for another (e.g., hexagonal cells vs. square cells) would have yielded predictable results to one of ordinary skill in the art at the time of invention. See *KSR International Co. v. Teleflex Inc.*

#### ***Citation of Pertinent Prior Art***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and is listed on the attached Notice of References Cited.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. McCulloch whose telephone number is (571) 272-2818. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. H. M./  
Examiner, Art Unit 3714  
3/27/2009

/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714